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09/775,018	02/01/2001	Eric G. Suder	16312-P005US	7490

7590 12/27/2004  
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EXAMINER	
VANDERPUYE, KENNETH N	
ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/775,018

Applicant(s)

SUDER ET AL.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-56 and 67-77 is/are allowed.
- 6) ☒ Claim(s) 1-6, 21, 57 and 58 is/are rejected.
- 7) ☒ Claim(s) 7-20, 22 and 59-66 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al.(5,751,791).

With regards to claims 1, Chen teaches a system comprising: a hub(Fig. 1@90), a multimedia server(Fig. 1@92), a telephony device coupled to the hub(Fig. 1@102 or 132, either LEC or PBX can be considered a telephony device), and a first network device coupled to the hub through the telephony device(Fig. 1@70a, 128), wherein the telephony device includes circuitry for throttling data sent from the first network device(the DDS/DATAPATH is 56 Kbps and the PRI/T1/SW56 is 65kps).

Claim 2 is rejected because Chen teaches a second network device connected to the hub, wherein data sent from the first network device is addressed for transmission to the second network device(Fig. 1@70c, the

system in Fig. 1 is set up in such a way that enables device 70c to communicate with device 70a)

Claims 3, 5 are rejected because all devices are all coupled together via an ISDN network, BRI, PRI.

Claim 21 is rejected because in Chen communication is realtime and the telephony device maintains the data rate at 56kbps.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 57-58 are rejected under 35 U.S.C. 102(e) as being anticipated by Schuster et al.(6,785,261)

With regards to claim 57 Schuster teaches an IP telephony device(Fig. 2) comprising:

an input data port for receiving data(Fig. 2@14), wherein the data is addressed for transmission to a location other than the IP telephony device(Fig. 2 telephone call made to a remote location over internet) ;

circuitry for communicating information to and from the IP telephony device(Fig. 2@14, 12, 16) and circuitry for sufficiently throttling the data so that the communication of the information can be performed real-time. (inherently taught because VOIP data is being sent out realtime using RTP protocol).

Claim 58 is rejected because the IP telephony device communicates using TCP/IP protocol.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Hung et al.(6,760,429)

With regards to claims 4, 6 Chen fails to teach a TCP/IP network or the multimedia server and the telephony device communicating using IP protocol. The network in Chen is a packet network however it is not TCP/IP.. Hung et al teaches an IP network with a telephony device and a

multimedia sever communicating using TCP/IP protocol. It would have been obvious to one of ordinary skill in the art to combine Chen with Hung for the purpose of sending multimedia messages over an IP network. The motivation being the use of a connection oriented network for multimedia communications.

***Allowable Subject Matter***


Claims 23-56, 67-77 are allowed.

Claims 7-20, 22, 59-66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV  
12/18/04



KENNETH VANDERPUYE  
PRIMARY EXAMINER